

1                                   A bill to be entitled  
2           An act relating to support of dependents;  
3           amending s. 827.06, F.S.; providing alternative  
4           punishment for nonsupport of dependents;  
5           providing a felony penalty for fourth or  
6           subsequent violations; providing for the amount  
7           of restitution due; providing requirements with  
8           respect to certain evidence; providing for  
9           satisfaction of the element of notice under  
10          certain circumstances; providing an effective  
11          date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Section 827.06, Florida Statutes, is  
16 amended to read:

17           827.06 ~~Persistent~~ Nonsupport of dependents.--

18           (1) The Legislature finds that most noncustodial  
19 parents want to support their children and remain connected to  
20 their families. The Legislature also finds that while many  
21 noncustodial parents lack the financial resources and other  
22 skills necessary to provide that support, a small percentage  
23 of such parents willfully fail to provide support to their  
24 children even when they are aware of the obligation and have  
25 the ability to do so pursuant to s. 61.30. The Legislature  
26 further finds that existing statutory provisions for civil  
27 enforcement of support have not proven sufficiently effective  
28 or efficient in gaining adequate support for all children.  
29 Recognizing that it is the public policy of this state that  
30 children shall be maintained primarily from the resources of  
31 their parents, thereby relieving, at least in part, the burden

1 presently borne by the general citizenry through public  
2 assistance programs, it is the intent of the Legislature that  
3 the criminal penalties provided for in this section are to be  
4 pursued in all appropriate cases where exhaustion of  
5 appropriate civil enforcement has not resulted in payment.

6 (2)(1) Any person who, after notice as specified in  
7 subsection (6), and who has been previously adjudged in  
8 contempt for failure to comply with a support order, willfully  
9 fails to provide support which he or she has the ability ~~is~~  
10 able to provide to a child ~~children~~ or a spouse whom the  
11 person knows he or she is legally obligated to support  
12 commits, and over whom no court has jurisdiction in any  
13 proceedings for child support or dissolution of marriage,  
14 shall be guilty of a misdemeanor of the first degree,  
15 punishable as provided in s. 775.082 or s. 775.083. In lieu of  
16 any punishment imposed pursuant to s. 775.082 or s. 775.083,  
17 any person who is convicted of a violation of this subsection  
18 shall be punished:

19 (a) By a fine to be paid after restitution for:

20 1. Not less than \$250 nor more than \$500 for a first  
21 conviction.

22 2. Not less than \$500 nor more than \$750 for a second  
23 conviction.

24 3. Not less than \$750 nor more than \$1,000 for a third  
25 conviction; and

26 (b) By imprisonment for:

27 1. Not less than 15 days nor more than 1 month for a  
28 first conviction.

29 2. Not less than 1 month nor more than 3 months for a  
30 second conviction.

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1           3. Not less than 3 months nor more than 6 months for a  
2 third conviction.

3           (3) Any person who is convicted of a fourth or  
4 subsequent violation of subsection (2) or who violates  
5 subsection (2) and who has owed to that child or spouse for  
6 more than 1 year support in an amount equal to or greater than  
7 \$5,000 commits a felony of the third degree, punishable as  
8 provided in s. 775.082, s. 775.083, or s. 775.084.

9           (4) Upon a conviction under this section, the court  
10 shall order restitution in an amount equal to the total unpaid  
11 support obligation as it exists at the time of sentencing.

12           (5)(a) Evidence that the defendant willfully failed to  
13 make sufficient good faith efforts to legally acquire the  
14 resources to pay legally ordered support may be sufficient to  
15 prove that he or she had the ability to provide support but  
16 willfully failed to do so, in violation of this section.

17           (b) The element of knowledge may be proven by evidence  
18 that a court or tribunal as defined by s. 88.1011(22) has  
19 entered an order that obligates the defendant to provide the  
20 support.

21           (6)(2) Prior to commencing prosecution under this  
22 section, the state attorney must notify ~~advise~~ the person  
23 responsible for support by certified mail, return receipt  
24 requested, that a prosecution under this section will be  
25 commenced against him or her unless the person pays the total  
26 unpaid support obligation ~~makes such delinquent support~~  
27 ~~payments~~ or provides a satisfactory explanation as to why he  
28 or she has not made such payments.

29           Section 2. This act shall take effect October 1, 2001.  
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